



**Alan C. Lloyd, Ph.D**  
*Agency Secretary*

# State Water Resources Control Board

**Division of Water Rights**  
1001 I Street, 14<sup>th</sup> Floor ♦ Sacramento, California 95814 ♦ 916.341.5300  
Mailing Address: P.O. Box 2000 ♦ Sacramento, California 95812-2000  
FAX: 916.341.5400 ♦ [www.waterrights.ca.gov](http://www.waterrights.ca.gov)



**Arnold Schwarzenegger**  
*Governor*

## **NOTICE OF APPLICATION TO APPROPRIATE WATER BY PERMIT AND PETITION TO CHANGE PLACE OF USE AND ADD A PURPOSE OF USE AND A POINT OF RE-DIVERSION**

**APPLICATION:** 31398

**COUNTY:** Mendocino

**DATE FILED:** February 21, 2003

**STREAM SYSTEM:** Russian River

**LICENSE:** 3646 (APPLICATION 12232)

**PETITION FILED:** November 12, 2002

Notice is hereby given that Fetzer Vineyards has filed a (1) petition to change the place of use, add a purpose of use and add a point of re-diversion for License 3646, and (2) Application 31398 for a water right permit to divert water from an Unnamed Stream tributary to McNab Creek and McNab Creek tributary to the Russian River in Mendocino County. The State Water Resources Control Board (State Water Board) will determine whether a water right permit should be issued for the application and, if so, whether conditions are needed in the permit to protect the environment, the public interest, and downstream water users. This notice provides a description of the proposed project and also describes the procedure and time frame for submittal of protests against the application. This notice may be viewed at the Division of Water Rights' (Division) website at [www.waterrights.ca.gov](http://www.waterrights.ca.gov). Any correspondence directed to the applicant should be mailed to:

Fetzer Vineyards  
c/o Wagner & Bonsignore  
444 North Third Street, Suite 325  
Sacramento, CA 95814

### **Description of Project Application 31398**

The applicant seeks a right to store water behind an existing Reservoir 1 constructed in the early 1990s. Reservoir 1 has a 24.9-foot high dam forming a 49 acre-foot capacity on-stream reservoir with a surface area of 3.1 acres. The project seeks to divert water to storage from an Unnamed Stream tributary to McNab Creek. The applicant also proposes to re-divert water from Point of Diversion 2 (McNab Reservoir) that is covered by Licensed Application 12232 (described later in this Notice) to store water in Reservoir No. 1. Water is diverted from the outlet pipe of McNab Reservoir by pumping and/or gravity (depending on reservoir levels), via a 5-inch diameter PVC pipe to Reservoir 1. The water will be used for the irrigation, frost protection, and heat control of 159 acres of vineyard and five acres of olives. Incidental uses include fire protection and recreational purposes. The project is located approximately eight miles south from Ukiah.

**Summary of Application 31398**

County: Mendocino.  
Source: (1) Unnamed Stream tributary to McNab Creek and  
(2) McNab Creek tributary to the Russian River.  
Points of  
Diversions: (1) Collection to Storage in Reservoir 1 and Point of Rediversion for Water  
Diverted at Point of Diversion 2 located within the NW $\frac{1}{4}$  of NE $\frac{1}{4}$  of projected  
section 33 and  
(2) Diversion to Offstream Storage in Reservoir 1 located within the SW $\frac{1}{4}$  of  
SW $\frac{1}{4}$  of projected section 28, both within T14N, R12W, MDB&M.  
Amount: 49 acre-feet (af) per year of storage.  
Season: November 1 to May 31 of the succeeding year.  
Purposes: Irrigation, Frost Protection, Heat Control, Fire Protection, and Recreational.  
Place of Use:

Use Within	Section	Township	Range	B & M	If Irrigated	
					Number of Acres	Presently Cultivated (Y/N)
NW $\frac{1}{4}$ of SW $\frac{1}{4}$	27	14N	12W	MD	12	Yes
SW $\frac{1}{4}$ of SW $\frac{1}{4}$	27	14N	12W	MD	10	Yes
NE $\frac{1}{4}$ of SW $\frac{1}{4}$	27	14N	12W	MD	1	Yes
SE $\frac{1}{4}$ of SW $\frac{1}{4}$	27	14N	12W	MD	4	Yes
SE $\frac{1}{4}$ of NE $\frac{1}{4}$	28	14N	12W	MD	3	Yes
NW $\frac{1}{4}$ of SW $\frac{1}{4}$	28	14N	12W	MD	5	Yes
NE $\frac{1}{4}$ of SW $\frac{1}{4}$	28	14N	12W	MD	15	Yes
NW $\frac{1}{4}$ of SE $\frac{1}{4}$	28	14N	12W	MD	26	Yes
NE $\frac{1}{4}$ of SE $\frac{1}{4}$	28	14N	12W	MD	38	Yes
SW $\frac{1}{4}$ of SW $\frac{1}{4}$	28	14N	12W	MD	5	Yes
SE $\frac{1}{4}$ of SW $\frac{1}{4}$	28	14N	12W	MD	12	Yes
SW $\frac{1}{4}$ of SE $\frac{1}{4}$	28	14N	12W	MD	19	Partial
SE $\frac{1}{4}$ of SE $\frac{1}{4}$	28	14N	12W	MD	11	Yes
NW $\frac{1}{4}$ of NE $\frac{1}{4}$	33	14N	12W	MD	3	No
<b>TOTAL</b>					<b>164</b>	

**PETITION TO INCREASE PLACE OF USE AND ADD A PURPOSE OF USE****Application 12232 (License 3646)****Description of Project**

The petitioner has a licensed right to collect 96.5 acre-feet (af) annually to storage from November 1 to April 1 of the succeeding year from McNab Creek tributary to the Russian River in Mendocino County for irrigating 50 acres.

The petitioner is seeking approval to add an additional 109 acres of vineyard and five acres of olives to the existing 50-acre place of use, for a total of 164 acres (see previous table) and to add frost protection as a purpose of use. Currently, 155 acres of vineyard and five acres of olives are being irrigated with water from the reservoir under this license. The remaining three acres of undeveloped vineyard will be irrigated from the reservoir in the future. The petitioner has requested to add the existing point of diversion (POD) under License 3646 as a POD and point of re-diversion to offstream storage and to add Reservoir 1 (see Application 31398) as a point of re-diversion under this license since water will be conveyed from McNab Reservoir covered by Licensed Application 12232 to Reservoir 1.

### **Summary of Licensed Application 12232 (License 3646)**

County: Mendocino.  
Source: McNab Creek tributary to the Russian River.  
Point of  
Diversion: SW $\frac{1}{4}$  of SW $\frac{1}{4}$  of projected section 28, T14N, R12W, MDB&M.  
Amount: 96.5 acre-feet per annum (afa).  
Season: November 1 to April 1 of the succeeding year.  
Purposes: Irrigation.  
Place of Use: 50 acres located within projected section 28, T14N, R12W, MDB&M.

### **Environmental Information**

The lead agency will prepare the appropriate environmental documents for the project according to the California Environmental Quality Act (CEQA) and its guidelines, and will determine whether or not the project will cause a significant effect on the environment. If you are not filing a protest, but wish to submit information that indicates the project may cause a significant effect on the environment, please send this information to Steven Herrera; State Water Board, Division of Water Rights; P.O. Box 2000; Sacramento, CA 95812-2000. This information will be reviewed in accordance with CEQA.

## **PROTEST SUBMITTAL INFORMATION**

### **Protest Requirements**

A person may file a protest based on any of the following factors:

- Interference with prior water rights.
- Adverse environmental impact.
- Not in the public interest.
- Contrary to law.
- Not within the jurisdiction of the State Water Board.

All protests must clearly describe the objections to approval of the application and the factual basis for those objections. There must be a clear link between the proposed project and the objection to its approval. If the objection is based on interference with prior water rights, the protest must describe specifically what injury would result if the application is approved. In addition, the party claiming interference with prior rights must provide specific information describing the basis of the prior right, the date the use began, the quantity of water used, the purpose of use and the place of use. Please note that any water right permit issued by the State Water Board is subject to vested water rights and will include conditions to protect such rights.

If the protest is based on an allegation that the proposed appropriation would not be within the State Water Board's jurisdiction, would not best conserve the public interest or public trust uses, would have an adverse environmental impact, or would be contrary to law, the protest must be accompanied by a statement of facts supporting the allegation.

For example, public interest protests should clearly indicate how the appropriation will affect the public; environmental protests should identify specific impacts and provide supporting recitals on the effect of the proposed project on plants, animals, fish, erosion, pollution, aesthetics, etc.; public trust protests must identify the navigable waters and public trust values that would be affected by the proposed project and how the project will impact public trust values.

All protests should include a description of any measures that could be taken to resolve the protest. The protest also must indicate the manner in which the protestant served upon the applicant a duplicate copy of the protest.

If sufficient information is not submitted, the State Water Board may reject the protest or request that the protestant submit additional information. Protests of a general nature (not project specific) or protests that are inconsistent with constitutional or legislated state policy will not be accepted. A request for information or a request that studies be conducted does not constitute a protest.

### **Procedure for Submitting Protests**

Protests should be submitted on standard protest forms available from the Division's website at [www.waterrights.ca.gov/forms/](http://www.waterrights.ca.gov/forms/) or upon request, in writing or by telephone, from the Division. A pamphlet that provides additional information relating to water rights and the procedure for filing protests is also available on the website or by mail. Any requests or the submittal of the completed protest form should be directed to the individual listed as the contact person at the end of this notice. **A copy of the completed protest form must also be mailed to the applicant.**

### **Protest Submittal Deadline**

Protests submitted in response to this notice must be received by the Division by 3:00 p.m. on the 40<sup>th</sup> day after the date of this notice (the close of the protest period). Protests may be submitted by any of the following methods:

1. Mailed to Division of Water Rights; P. O. Box 2000; Sacramento, CA 95812-2000
2. Faxed to the Division at (916) 341-5400
3. E-mailed to the engineer listed below under the heading "Contact Person"
4. Hand-delivered to the Division office located at 1001 "I" Street, 2<sup>nd</sup> Floor (File Room), Sacramento, CA

If you choose to fax or e-mail the protest due to the constraints of the noticing period, the fax or e-mail must be followed by timely delivery of an original signed copy, either personally or by mail, to the Division in order for the protest to be accepted. The State Water Board will respond to all protests within 60 days of the final day to file a protest. **Protests not submitted by the close of the protest period will be subject to rejection.**

For good cause, the State Water Board may grant an extension of time to file a protest. It is the protestant's responsibility to contact the engineer listed below as "Contact Person" to request the extension prior to the end of the protest period.

### **Resolution of Protests**

The applicant will have 30 days to respond to a protest once it is accepted by the Division. The protestant and the applicant are expected to make a good faith effort to resolve the protest within 180 days from the close of the protest period.

This is a "minor" project (the proposed diversion is 3 cubic feet per second or less by direct diversion or 200 acre-feet or less per year by storage) as defined by section 1348 of the Water Code. Therefore, any protest issues not resolved by the applicant or by provisions of section 1335 of the Water Code will be decided by the Chief, Division of Water Rights, following a field investigation.

### **CONTACT PERSON**

To obtain additional information regarding this project, or to obtain copies of protest forms, or general information pamphlets, please contact Patricia Meroney by phone at (916) 341-5354 or by electronic mail at [pmeroney@waterboards.ca.gov](mailto:pmeroney@waterboards.ca.gov). Information and protest forms are also available at the Division's website: [www.waterrights.ca.gov/forms/](http://www.waterrights.ca.gov/forms/).

Date of Notice: **May 3, 2006**

PJMeroney:pjm:/dclledesma:3-28-06

U:\PERDRV\PJMeroney\31398 REDO APP-NOT (08-05).DOC